



Subject: Transportation Enhancement Activities

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From: Associate Administrator for
Program Development

Reply to
Attn. of: HEP-32

To: Regional Federal Highway Administrators
Federal Lands Highway Program Administrator

Section 1007(a) of the ISTEA, adding 23 U.S.C. 133(d)(2), requires that 10 percent of the new Surface Transportation Program funds only be available for transportation enhancement activities. Section 1007(c), amending 23 U.S.C. 101(a), defines transportation enhancement activities. Section 1024, amending 23 U.S.C. 134(f)(5), specifies that the programming of transportation enhancement activities is a factor to be considered in the development of metropolitan transportation plans and programs. Section 1025, adding 23 U.S.C. 135, specifies that the statewide transportation improvement program shall reflect the priorities for programming and expenditure of funds, including transportation enhancements. This memorandum provides interim guidance concerning the interpretation of these provisions.

Qualifying Activities

Several field offices have asked whether the list of activities in Section 1007(c) is exclusive or illustrative. It is exclusive. Only those activities listed in Section 1007(c) are eligible to be accounted for as transportation enhancement activities. They are:

1. Provision of facilities for pedestrians and bicycles.
2. Acquisition of scenic easements and scenic or historic sites.
3. Scenic or historic highway programs.
4. Landscaping and other scenic beautification.
5. Historic preservation.
6. Rehabilitation and operation of historic transportation buildings, structures or facilities (including historic railroad facilities and canals).
7. Preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails).
8. Control and removal of outdoor advertising.
9. Archaeological planning and research.
10. Mitigation of water pollution due to highway runoff.

Many projects are a mix of elements, some on the list and some not. Those project elements which are on the list may be counted as transportation enhancement activities. For example, a rest area might include a historic site purchased and developed as an interpretive site illustrating local history. The historic site purchase and development would qualify as a transportation enhancement activity.

Activities which are not explicitly on the list might qualify if they are an integral part of a larger qualifying activity. For example, if the rehabilitation of a historic railroad station required the construction of new drainage facilities, the entire project could be considered a transportation enhancement activity. Similarly, environmental analysis, project planning, design, land acquisition, and construction activities necessary for implementing qualifying transportation enhancement activities are eligible for funding and may be counted toward the 10 percent requirement.

Transportation Enhancement and Environmental Mitigation

The Congress included the language on transportation enhancements as a means of stimulating additional efforts in the activities listed. Enhancement measures in the activities listed that go beyond what is customarily provided as environmental mitigation can be considered as transportation enhancement. States may not use transportation enhancement funds to finance normal environmental mitigation work. We realize that the process of determining which activities will be considered as normal mitigation and which will be accounted for as transportation enhancement activities will be difficult. Initially, it will require close coordination between the State DOTs and their FHWA Division Offices on a case-by-case basis.

Project Linkage

The definition of transportation enhancement activities includes the phrase, "with respect to any project or the area served by the project." Given its overall context, we interpret this phrase to mean that the proposed transportation enhancement activity must have a direct relationship to the intermodal transportation system, but not necessarily to a currently planned highway project. This relationship may be one of function, proximity, or impact. For example, an independent bike path is a functional component of the intermodal transportation system. Removal of outdoor advertising in the viewshed of a highway is justified in light of its proximity. Retrofitting an existing highway by creating a wetland to filter runoff from the highway would qualify based on the impact of the highway in terms of water pollution.

Once a relationship to the intermodal transportation system is established, transportation enhancement activities can be implemented in a variety of ways. They can be developed as parts of larger transportation projects, as parts of larger joint development projects, or as stand-alone projects.

Planning Process

The metropolitan and Statewide planning processes should occupy a central role in the identification, planning, and funding of transportation enhancement activities. In particular, the planning processes are the appropriate mechanisms for determining funding priorities from among competing transportation enhancement activities, including those which are not part of larger transportation projects. FHWA field offices should strongly encourage the States and metropolitan planning organizations (MPOs) to seek out and fully integrate transportation enhancement activities into both their plan development and programming processes. To be funded, transportation enhancement activities must be included in the appropriate metropolitan and statewide transportation improvement programs.

Given the widespread public interest in transportation enhancement activities, they should be highlighted in public involvement activities implemented under the new metropolitan and statewide planning requirements. Procedures for planning, programming and developing transportation enhancement activities are of special interest to public interest organizations and members of the general public.

Project Development

Building on the work done in the planning process, State DOTs, MPOs, and FHWA field offices have a responsibility to actively pursue transportation enhancement opportunities during the development of individual transportation projects. Accordingly, future environmental approvals should specifically take into consideration the potential for implementing transportation enhancement activities as part of the overall projects. During their involvement on these projects, FHWA field offices should promote transportation enhancement activities as a means of more creatively integrating transportation facilities into their surrounding communities and the natural environment.

Where appropriate, transportation enhancement activities may be developed in cooperation with other State and local agencies and with private entities. However, the State DOT or other eligible transportation agency shall remain responsible to the FHWA for the enhancement project. Furthermore, transportation enhancement activities, including stand-alone transportation enhancement projects, must comply with all applicable environmental and other Federal requirements, even though the express purpose of the project is to enhance an element of the natural or cultural environment.

Financial Accounting

The funds made available only for transportation enhancement activities are derived from several sources. The main source is the STP, of which 10 percent is available only for transportation enhancement activities. In addition, 10 percent of (1) the funds resulting from reimbursements for segments of the Interstate system constructed without Federal assistance under 23 U.S.C. Section 160 and (2) the apportionment adjustments made pursuant to Subsection 1015(a)-(c) of ISTEA are available only for transportation enhancement activities.

The Office of Fiscal Services has already established an appropriation code for transportation enhancement activities and has notified you of the FY 1992 STP suballocation amounts available only for transportation enhancement activities. While 10 percent of each year's STP apportionment may be obligated only for transportation enhancement activities, there is no requirement that 10 percent of the funds for any given project be devoted to transportation enhancement activities, nor is there a requirement that 10 percent of the STP obligations made during a given fiscal year be devoted to transportation enhancement activities.

Section 1007 specifies that the 10 percent of STP funds for transportation enhancement activities is separate from the STP funds which are suballocated to the larger metropolitan areas and to other areas of the State. Accordingly, while the STP sub-State allocation funds can be used for transportation enhancement activities, any such use would not count toward the 10 percent requirement.

Monitoring Program Accomplishments

Guidance on reporting requirements will be forthcoming. It is very likely that States will need to prepare an annual report on overall STP obligations. To cover this contingency, States should maintain records on (1) the amounts obligated for transportation enhancement activities using the STP transportation enhancement appropriation code (counting toward the 10 percent requirement) and other STP funds (not counting toward the 10 percent requirement), and (2) how obligations for transportation enhancement activity are distributed among the 10 qualifying activities. A brief description of each specific transportation enhancement action for which STP funds have been obligated would also be very useful information.

Further Information

The transportation enhancement provisions offer exciting new opportunities to achieve the goals laid out in the National Transportation Policy, FHWA's Environmental Policy Statement, and FHWA's strategic planning process. This is an area that will undoubtedly evolve rapidly as we begin implementing projects under the new authority. We will be issuing additional guidance and sharing information on successful endeavors as the opportunities arise. In the meantime, please keep us informed about good examples of transportation enhancement efforts in your region. Our contact on transportation enhancement activities is Mr. Fred Skaer. He can be reached at FTS 366-2058.

A handwritten signature in black ink, appearing to read "A. R. Kane", with a stylized, sweeping underline.

Anthony R. Kane